**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH**

S.B. CRIMINAL MISC. PETITION NO.2018/07

Kalu **Versus** State

**DATE OF ORDER :: 22/11/2007**

**HON'BLE MR. JUSTICE AJAY RASTOGI**

Mr. R.P. Vijay, for petitioner
Mr. Arun Sharma, Public Prosecutor for State

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Instant petition has been filed by petitioner questioning the condition of furnishing bank guarantee which was imposed by learned trial Judge and so also by revisional court under order impugned for delivery of vehicle i.e. Tractor/trolly on supurdagi during pendency of trial.

FIR was registered against accused-petitioner for offence u/ss.26 & 41 of Forest Act on 6th August, 2007 in which it was alleged that he was carrying the masonry stone from forest reserve area - on account of which vehicle was seized. Petitioner is a registered owner of Tractor/Trolly No.RJ-20-R-A0571. Application was filed for release of vehicle on superdagi u/s.451 Cr.P.C. which was allowed by learned trial Judge, but imposed condition that petitioner will furnish bank guarantee for a sum of Rs.2,75,000/- so far as tractor is concerned and in addition to

it, Rs.60,000/- bank guarantee for trolley and only thereafter, vehicle be handed over to him – against which revision petition was preferred which was also accepted and the condition of bank guarantee has been modified from Rs.2,75,000/- to Rs.1,00,000/- and Rs.60,000/- to Rs.35,000/-.

Counsel for petitioner submits that he being registered owner and calling upon to furnish bank guarantee for his vehicle to be handed over on supurdagi is onerous condition and same deserves to be set aside.

Learned Public Prosecutor supported the order impugned and submits that these are reasonable restriction and condition imposed does not call for interference.

In **Vikas Singh Vs. State of Rajasthan [S.B. Criminal Misc. Petition No.1414/05, decided on 22nd November, 2005]** wherein the condition of furnishing bank guarantee has not been considered to be appropriate and same has been set aside. As such, the consistent view of this court is that such vehicles which are seized on account of some offence pending trial be handed over on furnishing solvent security by the person concerned to whom the vehicle is to be handed over on supurdagi.

Consequently, misc. petition stands allowed and the conditions imposed by learned trial Judge/Revisional Court of furnishing bank guarantee for tractor/trolley are hereby quashed and set aside. Taking into consideration all the facts & circumstances of the case, tractor/trolley seized during investigation in FIR No.13-621 dated 6th August, 2007 for offences u/ss.26 & 41 of Forest Act be released on superdginama and delivered to petitioner during pendency of investigation, inquiry & trial on satisfying following conditions:

(1)petitioner shall furnish personal bond in a sum of Rs.3,50,000/- with one surety in like amount to the satisfaction of the trial Court with the stipulation to produce the tractor/trolley before the trial Court or competent authority during inquiry, investigation and trial as & when ordered/required.

(2)that in the presence of investigating officer, he shall get three coloured cabinet size photographs of the tractor/trolley in question each set showing - (a) number plates; (b) chesis number; (c) engine number; & (d) total body of the vehicle and produce photographs & its negatives alongwith challan before the trial Court.

(3) that he shall not change the colour or alter

numbers or tamper with the evidence in any manner and shall not make or allow any changes in its to be made so as to make it unidentifiable;

(4)that without prior permission of the trial Court, he shall not transfer or alienate the said vehicle during pendency of the trial and shall not lease it to any one;

**[AJAY RASTOGI],J.**